

Application No. 09/869,513
Paper Dated: October 15, 2009
In Reply to USPTO Correspondence of October 14, 2009
Attorney Docket No. 1762-010921

REMARKS

The Office Action, dated October 14, 2009, has been received and the Examiner's comments carefully considered. Claims 1-41, 44, and 45 are pending in this application. The Examiner is thanked for reviewing the arguments filed in an Amendment of August 5, 2009, and withdrawing the previous Section 103(a) rejection.

In the present Action, claims 1-41, 44, and 45 stand rejected on the ground of non-statutory obviousness-type double patenting, as being unpatentable over claims 1-168 of U.S. Patent No. 7,590,688. The Examiner believes that although the conflicting claims are not identical, they are not patentably distinct from each other. In this regard, the Examiner provides a chart on pages 3-6 of the Action, together with additional comments on page 7. In addition, the Examiner indicates that a timely filed Terminal Disclaimer may be used to overcome an actual or provisional rejection based upon a non-statutory double patenting ground.

Enclosed herewith, Applicant respectfully submits a Terminal Disclaimer, which has been executed by the undersigned. This Disclaimer directly addresses the Examiner's non-statutory obviousness-type double patenting rejection. As this double patenting rejection was the only outstanding rejection of claims 1-41, 44, and 45, and, as the Examiner has indicated, a timely-filed Terminal Disclaimer is effective in overcoming such a rejection, withdrawal of this rejection is respectfully requested.

If any further documents or information is required, the Examiner is respectfully requested to contact the undersigned. Otherwise, Applicant submits that all of pending claims 1-41, 44, and 45 are in allowable form.

Respectfully submitted,
THE WEBB LAW FIRM

By 
Nathan J. Prepelka
Registration No. 43,016
Attorney for Applicant
436 Seventh Avenue
700 Koppers Building
Pittsburgh, PA 15219
Telephone: (412) 471-8815
Facsimile: (412) 471-4094
E-mail: webblaw@webblaw.com